



## Office Action Summary

Application No.  
08/860,465

Applicant(s)

Basson et al

Examiner

Michael A. Neas

Group Art Unit

3741

 Responsive to communication(s) filed on Aug 13, 1998 This action is **FINAL**. Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

 Claim(s) 1-20 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

 Claim(s) 14 and 15 is/are allowed. Claim(s) 1-8 and 18 is/are rejected. Claim(s) 9-13, 16, 17, 19, and 20 is/are objected to. Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

 See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948. The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner. The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved. The specification is objected to by the Examiner. The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

 Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

 Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

 Notice of References Cited, PTO-892 Information Disclosure Statement(s), PTO-1449, Paper No(s). 8 Interview Summary, PTO-413 Notice of Draftsperson's Patent Drawing Review, PTO-948 Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendments and arguments presented by the applicant have been duly noted and considered. In view of such, the previous rejections are withdrawn. However, new rejections are presented below.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 6-8 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Mager.

Mager discloses the invention as claimed. Mager teaches a protective helmet including a main outer shell 11, a front facial opening (shown in the Figures) and resilient bending means 31,32,37,47 in an area corresponding to the nape of the user. The shell 11 is made from a resinous (plastic) material and, therefore, is deformable to some extent. With regard to claim 6, the helmet includes cutouts on either side of members 31,32 which are clearly shown in Figure 5.

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Note that Mager refers to the open section 30 as a cutout. With regard to claim 8, each opening as shown in Figure 5 is considered a cutout.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mager in view of Simpson.

Mager discloses the invention substantially as claimed. However, the shell 11 of Mager is not constructed from a composite. Simpson teaches the use of a composite material in a helmet shell (column 1, lines 23-30). Since such a concept is known, it would have been obvious to form the shell of Mager from a composite material in order to provide added protection while making the helmet more lightweight.

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***Allowable Subject Matter***

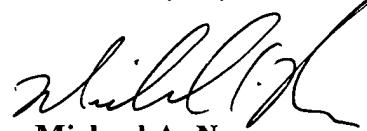
6. Claims 14 and 15 are allowed.
7. Claims 9-13, 16, 17, 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Neas whose telephone number is (703) 308-0954. The examiner can normally be reached on Monday-Thursday from 7:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, can be reached on (703) 305-1025. The fax phone number for this Group is (703) 305-3463.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.



Michael A. Neas  
Primary Examiner  
Art Unit 3741

man  
October 22, 1998